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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/721,938

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08/31/2006

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EXAMINER

PICKETT, JOHN G

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,938

Applicant(s)

KREY, L. MARIE

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/12/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action acknowledges the applicant's amendment received 12 June 2006. Claims 1-13 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claims 2, 5, and 7 recite the terminology "portable member", which lacks proper antecedent basis in the specification.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "portable member" of claims 2, 5, and 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the second compartment, or the third compartment" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. To examine the claim on its merits, the examiner presumes the claim to mean the first, second, or third chamber.

Claim Rejections - 35 USC § 102

6. Claims 1-4, 6, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrow (US 5,988,386; previously cited).

Claim 1: Morrow discloses a container **14** (see Figure 7) for multiple catamenial related products **60 & 78**. Per applicant's specification (see page 9, lines 8-10), a circumferential ridge and groove arrangement are an acceptable waterproof seal. Accordingly, Morrow anticipates waterproof seals (Col. 7, lines 57-59, and seal **31**), and crush resistance (Col. 5, lines 21-24).

Claim 2: Insofar as the applicant has not provided a specific definition of the term "portable member", the examiner assumes the term to be any member that is portable. Accordingly, Morrow anticipates an outer shrink-wrap (see Col. 8, lines 13-20), which may be considered a "portable member". In accordance with MPEP 2111.01, during examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004).

Claims 3 and 4: Morrow discloses a container **14** (see Figure 7) for multiple catamenial related products **60 & 78** and two chambers **36A & 36B**. Per applicant's specification (see page 9, lines 8-10), a circumferential ridge and groove arrangement are an acceptable waterproof seal. Accordingly, Morrow anticipates waterproof seals (Col. 7, lines 57-59, and seal **31**), and crush resistance (Col. 5, lines 21-24).

Claim 6: Morrow anticipates a prepackaged wipe **60**.

Claim 10: Morrow discloses a container **10** with a body **12/14** having a first end **12**, a second end **14**, first end cap **31**, second end cap **29**, and an enclosed end (middle separator, see Figure 7) separating the body into a first chamber **36** and a first compartment **20**. Per applicant's specification (see page 9, lines 8-10), a circumferential ridge and groove arrangement are an acceptable waterproof seal. Accordingly, Morrow anticipates waterproof seals (Col. 7, lines 57-59, and seal **31**), and crush resistance (Col. 5, lines 21-24).

Claim 11: Morrow anticipates first chamber **36** divided into a second chamber **36A** and third chamber **36B**.

Claim 12: Morrow anticipates a receptive member **48**.

Claim 13: Morrow anticipates a prepackaged wipe **60**, disposed in a chamber as claimed (see Figure 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrow as applied to claim 3 above, and further in view of Stravitz (US 6,164,442).

Claim 5: Morrow, as applied to claim 3 above, discloses the claimed invention except for the receptive member including a portable member.

Stravitz discloses a multi-compartment, crush resistant container **110** for catamenial related products **113** with a receptive member **128** affixed to the container and including a portable member **132** for carrying or hanging the container (see Col. 6, lines 64-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Morrow with receptive member including a portable member as taught by Stravitz in order to carry or hang the container.

Claim 7: the container of Morrow-Stravitz, as applied to claim 5 above, discloses the claimed invention.

Claim 8: Insofar as the printing is not positively claimed as structure, Morrow discloses a smooth outer surface that is fully capable of receiving printing.

Claim 9: Insofar as the adhesive stickers are not positively claimed as structure, Morrow discloses a smooth outer surface that is fully capable of receiving adhesive stickers.

Response to Arguments

8. Applicant's arguments filed 12 June 2006 have been fully considered but they are not persuasive.

9. Claims 6, 11, and 13 were rejected under 35 USC 112, 2nd paragraph, not 112, 1st paragraph as argued by the applicant. The amendment to claims 6 and 11 have overcome the rejection under 35 USC 112, 2nd paragraph, but the amendment to claim 13 fails to provide proper antecedent basis for the claimed limitations.

10. As to the waterproof seals, per applicant's specification (see page 9, lines 8-10), a circumferential ridge and groove arrangement are an acceptable waterproof seal. Morrow anticipates a circumferential ridge and groove arrangement (Col. 7, lines 57-59).

Conclusion

11. As the examiner has presented new grounds of rejection with respect to claim 3, which remains in its original state, in addition to the newly presented objections to the specification and drawings, this Office Action is made **NON-FINAL**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Greg Pickett
Examiner
29 August 2006